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THE HON. SRI R. VENKATARAMAN : Sir, actually there is a census of these hut dwellers, and revenue records have this information. Recently I had a case in which some people had occupied the land allocated for our engineering college extension. Then all the people said that they had been living there for ten years and fifteen years, but actually when we referred to the Collector's records we discovered that only 126 people had lived there for more than six months. Therefore, it is not very difficult to find out who lived there for more than six months.

Clause 2 was put and carried.

Clauses 3 to 10 were put and carried.

Clause 1 was put and carried.

The Preamble was put and carried.

THE HON. SRI M. A. MANICKAVELU : Sir, I move—

"That the Madras Public Premises (Eviction of Unauthorized Occupants) Bill, 1960 (L.A. Bill No. 24 of 1960), as passed by the Legislative Assembly, be passed."

MR. CHAIRMAN : The question is—

"That the Madras Public Premises (Eviction of Unauthorized Occupants) Bill, 1960 (L.A. Bill No. 24 of 1960), as passed by the Legislative Assembly, be passed."

The motion was put and carried and the Bill was passed.

(2) THE MADRAS GENERAL SALES TAX (AMENDMENT) BILL, 1960 (L.A. BILL NO. 25 OF 1960).

* THE HON. SRI R. VENKATARAMAN : Sir, I move—

"That the Madras General Sales Tax (Amendment) Bill, 1960 (L.A. Bill No. 25 of 1960), as passed by the Legislative Assembly, be taken into consideration."

Sir, the working of the Madras General Sales Tax Act, 1959, during the past one year and more has given rise to several problems connected with the administration of the Act necessitating amendments to certain provisions in the Act. The present Bill embodies the amendments found necessary. Now I shall proceed to explain the scope of the several clauses of the Bill.

The High Court of Madras has held that sales tax cannot be levied on works contracts relating to movable properties with no element of sale in them. The Government have, therefore, decided to omit the provisions in the Act relating to works contracts on movable property I am sorry, my esteemed Friend, Mr. Balasubramanya Ayyar is not here. When the Bill was under discussion in the Select Committee I informed the Committee that the matter

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* Printed as Appendix II on pages 278–283 infra.

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was under consideration by the High Court and that if the High Court decided that works contracts should not be charged sales tax,
5-30 p.m. then we would remove it. So, in pursuance of the promise that I gave, I have brought forward this amendment for the removal of the levy of sales tax on works contracts. Clause 2 of the Bill provides for this.

The intention behind section 3 (3) of the Act was that the manufacture should be inside the State and that such manufacture should be for the purpose of sale irrespective of the fact whether the sale is inside our State or outside. Here I may explain how in the phraseology a slight error crept in. We used the words 'manufacture for sale inside the State'. This gave a wrong impression that the sale itself should take place inside the State. Our idea is that the manufacture must be inside the State. Sale can be inside or outside the State. So, we now use the words 'manufacture inside the State for sale'. It was not the intention to impose a restriction that the sale of finished products should be completed within the State. To give effect to the intention correctly, it is proposed to amend section 3 (3) of the Act suitably. Clause 3 of the Bill provides for this. It is also proposed to give retrospective effect to this clause from 1st April 1959, that is, the date of the commencement of the Madras General Sales Tax Act, 1959. Clause 1 (2) of the Bill provides for this. The object in giving it retrospective effect is that that was the intention of the Legislature and the Government. Nobody should be charged wrongly on the ground that the sale did not take place within the State.

Sub-section (1) of section 20 of the Madras General Sales Tax Act, 1959, lays down that every dealer whose total turnover in any year is not less than Rs. 7,500 shall, and any other dealer may get himself registered under that Act. Section 20 (2) of the Act lays down that certain classes of dealers specified in that section should get themselves registered under the Act irrespective of the quantum of the total turnover. The registration under the Act is mandatory. There is no power for the Government to grant any kind of exemption from the operation of the provisions relating to registration under the Act. It has been found necessary to give exemption from registration under the Act in the case of certain dealers who are not liable to pay sales tax by virtue of exemption from sales tax granted by the Government or to enhance the total turnover limit in the case of certain dealers. The case in point was that the vegetable dealers were given exemption up to Rs. 30,000 last year from sales tax. But they had to register themselves even if they had transactions only up to Rs. 7,500. The Government had no power to exempt them from registration or to enhance the limit for purposes of registration. It is accordingly proposed to take power for this purpose. Clause 4 of the Bill accordingly provides for the grant of such exemptions or enhancement of the total turnover limit by notification, subject to such restrictions and conditions as may be specified in the notification. The clause also provides for specifying the area in which the concession will apply for cancellation or variation of the concession. This clause is proposed to be given retrospective effect from 1st April 1959, i.e., the date of commencement

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of the Madras General Sales Tax Act, 1959. We have not collected any registration fee from a number of dealers exempted from registration. So we propose to give retrospective effect so that all our acts might be validated.

Rule 25 of the Madras General Sales Tax Rules, 1959, provides for the issue of permits to the dealers themselves or to travelling salesmen or representatives of the dealers who sell goods in places other than those mentioned in the certificate of registration of the dealers. The Committee on Subordinate Legislation has pointed out that this rule is beyond the rule-making powers conferred by the Act. As provisions similar to those contained in this rule are necessary to prevent suppression by dealers of transactions effected through travelling salesmen and representatives it is proposed to incorporate the necessary provisions in this regard in the Act itself. This is done in pursuance of the recommendation of the Committee on Subordinate Legislation. New section 21-A proposed to be inserted by clause 5 of the Bill contains the provisions in this regard. It is also proposed to make the failure to take out a permit under the proposed new section 21-A an offence punishable with a fine up to Rs. 200 as provided in section 45 (1) for certain other forms of offences. Now there is fine provided for if they do not keep proper certificates and forms. It is intended to provide for the same punishment here also. Clause 11 contains the provision in this regard.

The Government have no power at present under the Act to require a dealer to keep and maintain any specified record found necessary to prevent evasion of tax. It has been brought to the notice of the Government that dealers in jewellery are likely to evade tax by claiming that jewels sold to customers are made to order with the gold or silver supplied by the customer. To prevent evasions of this kind it is considered necessary to prescribe the maintenance by the dealers of an order-book or any other record that may be found expedient. Clause 6 of the Bill provides for the amendment of section 40 of the Act in this regard. Clauses 7 and 12 provide for consequential amendments to sections 41 and 57 of the Act respectively.

Sections 43 and 44 of the Madras General Sales Tax Act, 1959, require the owner or other person in charge of a boat or a goods vehicle to submit to the Commercial Tax Officer, having jurisdiction over the area in which the goods are delivered, copies of the log book, goods vehicle record or trip sheet, as the case may be, with such further particulars and within such time as may be prescribed under the Act. Rule 35 (1) of the Act requires the owner or other person in charge of the goods vehicle or boat, among other things, to carry with him a goods vehicle record, a trip sheet, or a log book, as the case may be and also a bill of sale or a delivery note. It has been held that rule 35 (1) is beyond the rule-making powers conferred by the Act and that no section specifically empowers the Government to prescribe the documents that should be carried by the person in charge of a goods vehicle or boat. Often the log book

or the goods vehicle record or trip sheet which the goods vehicles or boats carry does not contain the full particulars of the consignor and the consignee of the goods with the result that the object with which sections 43 and 44 were enacted, viz., to prevent evasion of tax in respect of goods transported by lorries and boats, is not achieved. Therefore, the provisions in rule 35 requiring the possession by the person in charge of a goods vehicle or a boat of bill of sale or delivery note containing the full particulars of the consignor and the consignee are necessary in the interests of checking the evasion of tax. It is accordingly proposed to make it obligatory on the part of the owner or other person in charge of a boat or goods vehicle to carry with him a bill of sale or delivery note relating to the goods, besides the log book, trip sheet or the goods vehicle record Sections 43 and 44 of the Act are accordingly proposed to be substituted by new sections 43 and 44 which give effect to the requirements of the Government. Clauses 9 and 10 contain the provisions in this regard. Clause 8 provides for the amendment of section 42 (3) of the Act so as to bring it in line with the new sections 43 and 44.

Clause 13 (1) of the Bill seeks to rectify certain errors in punctuation in the existing entry in item 23 of the First Schedule to the Act. A comma has been omitted.

The intention behind item 24 in the First Schedule to the Act is to exclude from the scope of that item ' milk ' falling under section 3 (1) of the Act which is not merely fresh milk but all liquid milk, whether fresh or not. What we intended was that not only fresh milk but even reconstituted milk and other kinds of liquid milk should have the benefit of one per cent tax. But as the provision now stands, other milk than fresh milk is liable to a higher rate of tax. We want to extend the benefit to other kinds of milk but not to milk powder. It should be liquid milk like fresh, toned or reconstituted milk. Hence we propose to omit the word ' fresh ' from item 24. Clause 13 (2) provides for this.

Under item 59 of the First Schedule to the Madras General Sales Tax Act, 1959, 'wattle bark including dyeing and tanning materials ' is liable to single point tax of 3 per cent at the point of last purchase. With reference to representations seeking clarification of the materials covered by that item, the Government have decided to specify only avaram bark, konnam bark, wattle-bark, wattle extract, quobracho and chestnut extract as items liable to tax at single point under the item. With effect from 1st April 1960, the Government have reduced the rate of tax on wattle bark including dyeing and tanning materials from three per cent to one per cent and this reduction is also embodied in the amendment to this item. Clause 13 (3) provides for these proposals.

Under item 6 (a) in the Second Schedule to the Madras General Sales Tax Act, 1959, groundnut is liable to a single point tax of two per cent at the point of first sale in the State. The experience gained from 1st April 1959, shows that the levy of tax at the point of first sale in respect of groundnut has caused difficulties.

As the commodity is liable to single-point tax at the point of first sale, growers of groundnuts who are in thousands in the districts and who generally sell them in the shape of kernels, become liable to tax and registration under the Act regardless of the quantum of their turnover. Sir, with them it has been a case of falling from the frying pan into the fire. Instead of levying the tax on a limited number of oil crushers and expeller users, this was levied at the point of production on the thousands and thousands of producers, groundnut growers, which was not our intention and thousands of groundnut growers became also liable for registration and for taxation. This is not what we wanted actually. Small growers even if they marketed one basket or a bag or a measure of groundnut became liable as a dealer to register themselves by paying Rs. 10 and they had to render accounts to the Sales Tax Officer for purposes of assessment. There is also administrative difficulty as the issue of registration certificates to several thousands of growers and also checking their accounts in the collection of tax will be a stupendous job. In order to mitigate the hardship to the growers the Government have decided to change the point of tax on groundnut from the first sale to the first purchase as was the case prior to 1st April 1959. The Government have also decided to reduce the rate of tax on groundnut from 2 per cent to 1 per cent. Under the new system the growers who sell their produce either unshelled or shelled will not be liable to pay tax as only the purchasers who will generally be the oil producers, will be liable to tax. Clause 14 of the Bill as passed by the Legislative Assembly contains the provision in this respect.

Sir, it is really a long series of amendments. Their acceptance is necessary either in compliance with the decision of the Court or in compliance with the decision of the Committee on Subordinate Legislation or with regard to the decisions already taken executively to reduce the rate of tax in several cases. Therefore there is nothing new or anything which imposes additional burdens on anybody. I therefore submit that this Bill may be taken into consideration.

MR. CHAIRMAN : Motion moved—

"That the Madras General Sales Tax (Amendment) Bill, 1960 (L.A. Bill No. 25 of 1960), as passed by the Legislative Assembly, be taken into consideration."

MR. CHAIRMAN : The hon. Member Sri M. Subbiah Chettiar will now speak. He should make a short speech.

* SRI M. SUBBIAH CHETTIAR: Only one minute Sir.

தலைவரவர்களே, கனம் மந்திரியவர்கள் இந்த வரியைப் பற்றிச் சொன்னார்கள். நிலக்கடலை சம்பந்தமாக மட்டும் பேசி சந்தேகத்தை நிவர்த்தி செய்துகொள்கிறேன். நிலக்கடலை உற்பத்தியாளர்களுக்கு அனுகூலம் பண்ணுவதற்காக இதுவரை இருந்த Sales tax -ஐ எடுத்துவிட்டு எண்ணெய் உற்பத்தி பண்ணுகிறவர்கள் மீது purcha e tax போடுவதாகச் சொல்

கிறார்கள். நிலக்கடலையை வாங்கி எண்ணெய் ஆக்கி விற்கும் போது மில்கள் 3 பெர் செண்ட் tax கட்ட வேண்டியிருக்கிறது. அது உத்திரவுப் பிரகாரம் 3-ம் 1-ம் மொத்தம் 4 per cent tax double tax கட்ட வேண்டியிருக்கும். அதை முன்னலிருந்த Rebate System ஆக மாற்றிக் கொடுத்தால் நல்லது என்று சொல்லிக் கொள்கிறேன்.

SRI MOHAMED RAZA KHAN : Sir, the long speech and the explanation given by the Hon. the Leader of the House and the Minister in charge of Sales Tax, shows how important this Bill is. The House has no time to scrutinize the various provisions of the Bill in detail. At least in future it would be better if such Bills are brought in at an earlier stage so that the House may have the time to consider the various provisions of the Bill and their implications.

However, I wish to make one or two points and finish my speech in a minute. It does no credit to the Hon. Minister to say that because of the decision of the High Court they have to carry out these amendments with reference to the Sundaram Motors. In fact it was pointed out to the Government even at that time that they were going beyond the scope of the Act in including lorries in the process of manufacture.

THE HON. SRI R. VENKATARAMAN : It was at that time pending before the Supreme Court.

SRI MOHAMED RAZA KHAN : The Hon. Minister was himself convinced about it when the point was made by my hon. Friend Sri K. Balasubramanya Ayyar.

Sir, with regard to the tanning materials, the Government themselves have realized the need for reducing the rate of tax and I am thankful to them for reducing the rate from three to one per cent.

Sir, the Government are spending a good deal of money and are even granting loans and subsidies for new industries to come up in the interest of the State as a whole. That being so, I do not know why the Government are particular in recovering the greater part of the arrears of sales tax from the skins and hides merchants. I have referred to this already many times and I wish to refer to it again as briefly as possible. Because of a wrong impression the authorities did not collect the tax and under the same wrong impression the businessmen in this line did not pay the tax. The result was there was heavy accumulation of arrears of tax amounting to Rs. 50,000 or even Rs. 60,000 in some cases. After the cases were finally disposed of in the High Court and the Supreme Court, they were asked to pay the arrears. The result was they have been asked to pay the arrears. They have no liquid assets except the stock of materials. We are no doubt thankful to the Government—'Meherbani' they call it—for their kindness in allowing them to pay in 30 or 40 instalments. But I may tell the Government that

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because of the insistence on the collection of arrears many of them have to go out of the business. They are not in a position to pay the arrears. If they go out of business there will be great unemployment and loss of production which earns for the Government the much needed foreign exchange. Government should show some sort of consideration for these people. I know of a case where a party had to pay arrears of Rs. 50,000 to Rs. 60,000. He had hardly Rs. 100 in cash and that was taken by the departmental officers and adjusted towards the arrears. There should be some limit and consideration shown to these people. The Hon. the Leader of the House might say that when discussing the particular Bill, I cannot bring in this general question. But I feel he should examine this and settle it once for all. It should not matter even if the Government have to lose a few lakhs of rupees. The business should be enabled to continue and employment should be there for these people. My hon. Friend Sri Patanjali Sastri the other day said it was not a mere question of trade, but it was a question of helping an industry which earned foreign exchange. The Hon. the Leader of the House might say: "Well, let them go to court and establish their right". I can anticipate an argument like that from him. That is why I repeat that some consideration should be extended to them. Any number of people have come and represented to me. They won't go to the officers because they want to collect the tax willy-nilly. I know the difficulty of the Hon. Minister these days. But still I feel the Hon. Minister will conduct an exhaustive survey of the problem and see that some relief is given to them. Otherwise, I am positive that many of the people who have been in the business for a long time will have to go out of it for no fault of theirs, because the clarification about the levy was not made in proper time.

Otherwise I support the Bill, Sir.

* SRI B. K. NALLASWAMI: மன்றத் தலைவரவர்களே, இந்த மசோதாவை ஆதரிக்கும்போது நான் வருத்தத்தோடு ஒரு விஷயத்தைச் சொல்லிக் கொள்ளாமலிருக்க முடியவில்லை. சென்ற பட்ஜட் சமயத்தில் விற்பனை வரியைப்பற்றிப் பேசும் போது மண்பாண்டங்களுக்கு விற்பனை வரி வைத்திருப்பதைப் பற்றி விதிவிலக்குக் கேட்டேன். யோசிப்பதாகச் சொன்னார்கள். அதற்குப்புறம் சில மாதங்கள் கழிந்ததற்குப் பிறகு The Government do not see their way to exempt the mud pots from sales tax" என்று சொல்லிவிட்டார்கள். குடிசைத் தொழிலை ஆதரிக்கிறோம் என்றெல்லாம் சொல்லுகிறோம். கனம் Chief Minister கூட திருப்பூர் மாநாட்டில் கூட்டுறவு சங்கங்களை ஏற்படுத்துங்கள், வேண்டிய சௌகரியங்களைச் செய்கிறோம் என்று சொன்னதின் காரணமாக இந்த ராஜ்யத்திலே சுமார் 70 மண்பாண்ட கூட்டுறவுச் சங்கங்கள் ஏற்படுத்தியிருக்கிறோம். ஒவ்வொரு சங்கத்திற்கும் சுமார் 2,000 ரூபாய் வரும்படி வந்திருக்கிறது. அந்தத் தொகை முழுவதையுமே, பெரும்பாகத்தையே Sales tax என்று எடுத்துக் கொண்டு போய் விட்டார்கள். இப்போது கூட்டுறவு சங்கங்கள் அமைக்க

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5-50 p.m. வேண்டும் என்று வருகிறவர்களை "வேண்டாம்" என்று சொல்லும் நிலையில் நான் இருக்கிறேன். இது கவனித்துச் செய்ய வேண்டிய விஷயம். மண்பாண்ட குடிசைத் தொழிலாளரைப் பாதிக்கும் விஷயம். மூன்று லட்சம் பேர்கள் நம் ராஜ்யத்தில் இத்தொழிலில் இருக்கிறார்கள். காய்கறி வியாபாரிகளைவிட 10 பங்கு அதிகமாக இருக்கக் கூடிய நிலையில் அவர்கள் விஷயத்தில் பாராமுகமாக இருப்பது மூன்று லட்சம் பேர்களையும் விரோதிகளாக்கவும், மாறுபட்டவர்களாக ஆக்கவும் நல்ல சந்தர்ப்பம் ஏற்படுத்தும் என்று சிறிது தயக்கத்தோடு எச்சரிக்கை செய்து இதைச் செய்யாமல் இருப்பதால் எங்களைப் போன்ற பிரதிநிதிகளுக்குக் கஷ்டம் ஏற்படும் என்று வருத்தத்தோடு தெரிவித்துக்கொண்டு மண்பாண்டங்களுக்கு விதிவிலக்கு அளிக்க வேண்டுமென்று கேட்டுக்கொள்கிறேன்.

THE HON. SRI R. VENKATARAMAN : Sir, I was asked to speak in Tamil by my hon. Friend Sri Subbiah Chettiar. If he had been here I would have spoken in Tamil. Mr. Chairman, I have clarified the point raised by him regarding payment of tax on groundnut. Government do not propose to give any rebate on purchase because Government feel that at the point of purchase we have reduced the tax from 2 to 1 per cent. Even by this reduction we will be losing some revenue and it is therefore, not possible to give any further reduction in the rate of tax.

Then, with regard to the second point about hides and skins, I wish to recall to the hon. Member Sri Raza Khan that the Government have been very very sympathetic in their case. We have permitted them to pay the arrears in instalments spread over a period of years. Even if they make a default in such payments we do not immediately proceed against them. We treat their cases sympathetically. Of course, I received lot of representations in the past. But from the fact that the representations have comparatively gone down in number during the last year . . . (SRI MOHAMED RAZA KHAN : They are tired of representing.) . . it shows that the problem is not so acute. The hon Member said they were tired of making representations. It is not that way. No man ever gets tired of making representations for his own advantage. He would be a superman who would say he is tired of representing and so he would pay. The problem has reduced itself in size by the concessions that we have given, the long period which we have given them to pay in small instalments. Therefore, the Government have done all that is possible under the circumstances.

There are a number of items on which people want reduction of sales tax. This is not the occasion to deal with all of them.

I just want to say one thing more. I would not bring in a Bill in a rush to have it passed without giving sufficient time for the Council to study its implications. But this Bill really seeks to embody all those which are accepted by all sections and to give effect to the decision of the court, in another case, to give effect to the decision of the Committee on Subordinate Legislation, and

also to give effect to the executive decision that was taken. I did not want to bring in the Chit Funds Bill in the other House, because I do not believe in hasty legislation and also because no real hardship is caused by a slight delay. But, on the other hand, this Bill will benefit a large section of the people and free them from doubts whether they should register themselves or not and whether they should be given exemption or not. So this Bill should be passed quickly. So far as groundnut is concerned, there is no retrospective effect. (Interruption.) All those things will be considered only at the Budget time.

MR. CHAIRMAN : The question is—

"That the Madras General Sales Tax (Amendment) Bill, 1960 (L.A. Bill No. 25 of 1960), as passed by the Legislative Assembly, be taken into consideration."

The motion was put and carried and the Bill was taken into consideration.

Clauses 2 to 14 were put and carried.

Clause 1 and the Preamble were put and carried.

THE HON. SRI R. VENKATARAMAN : Sir, I move—

"That the Madras General Sales Tax (Amendment) Bill, 1960 (L.A. Bill No. 25 of 1960), as passed by the Legislative Assembly, be passed."

MR. CHAIRMAN : The question is—

"That the Madras General Sales Tax (Amendment) Bill, 1960 (L.A. Bill No. 25 of 1960), as passed by the Legislative Assembly, be passed."

The motion was put and carried and the Bill was passed.

MR. CHAIRMAN : The House will now adjourn *sine die*.

The House then adjourned *sine die*.

VI—PAPERS LAID ON THE TABLE OF THE HOUSE.

* BILL PASSED BY THE ASSEMBLY AND RECEIVED THEREFROM IN THE COUNCIL.

1. *The Madras General Sales Tax (Amendment) Bill*, 1960 (*L.A. Bill No.* 25 *of* 1960).

2. *The Madras Public Premises (Eviction of Unauthorized Occupants) Bill*, 1960 (*L.A. Bill No.* 24 *of* 1960).

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* Sent by special messenger to all M.L.C. on 9th September 1960.